Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 77-136

ALDENS, INC.,
Petitioner,

v.

BRONSON C. LA FOLLETTE, Individually and as Attorney General for the State of Wisconsin, and ERICH MILDENBERG, Individually, and as Commissioner of Banking for the State of Wisconsin,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

BRIEF IN OPPOSITION

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Respondents.

BRIEF IN OPPOSITION

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit is reported at 552 F. 2d 745; the opinion of the United States District Court for the Western District of Wisconsin is not officially reported but is set forth at A1-A15 in Aldens' Petition for a Writ of Certiorari in this case.

QUESTION PRESENTED

Does the State of Wisconsin's regulation of the conduct of a foreign corporation in its mail order credit transactions with Wisconsin residents offend due process or constitute an undue burden on interstate commerce?

STATEMENT OF THE CASE

A. Nature of the Case

Aldens commenced this action on October 31, 1972, against the Attorney General and Commissioner of Banking of the State of Wisconsin. The complaint seeks a declaratory judgment that the application of Wisconsin law to Aldens' transactions with Wisconsin residents violates the Commerce Clause and Postal Clause of Art. I, Sec. 8, the Supremacy Clause of Art. VI and the First and Fourteenth Amendments of the United States Constitution.

The subject of this action is the mail order revolving charge account plan of Aldens. Aldens contends that the application of Wisconsin law to its revolving charge account plan is an unconstitutional attempt to regulate a business that is "purely interstate" in nature. It is the position of the State of Wisconsin, on the other hand, that Aldens may validly be subjected to Wisconsin's consumer credit laws to the extent that it engages in business with Wisconsin residents located within the State of Wisconsin. The District Court for the Western District of Wisconsin, Honorable James E. Doyle presiding, held that the State of Wisconsin may constitutionally regulate the revolving charge account transactions between Aldens and its Wisconsin mail order customers. The Seventh Circuit Court of Appeals affirmed the decision of the District Court.

B. Statement of Facts

The following facts are drawn from the Stipulation of Facts in this case (set forth in the District Court's opinion, A2-A7) and supplement the statement of facts recited by Aldens on pages 7-9 of its petition.

Aldens, Inc., is an Illinois corporation which conducts a general retail merchandise mail order business from Chicago, Illinois, to customers residing in all fifty states. Among these customers are approximately 23,000 Wisconsin residents to whom sales of approximately $4,600,000.00 are made each year. Approximately 73 percent of these Wisconsin sales are on credit with an average account balance of $164.81 (A3, par. 9).

Although Aldens has no offices or agents in Wisconsin, it regularly solicits business with Wisconsin residents through the mailing of catalogs and other printed materials to persons residing within Wisconsin. Specifically, Aldens mails catalogs to Wisconsin residents about four times each year and, in addition, mails supplemental advertising flyers six to eight times each year. Aldens also includes advertising material with the customer's monthly billing statement. The catalogs and "flyers" are mailed to Aldens' active Wisconsin customer list of about 65,000 names and inactive customer list of about 9,000 names. In addition, Aldens rents mailing lists from mailing list brokers located outside of Wisconsin and makes additional mailings to Wisconsin residents (A5, par. 18).

Among the printed materials mailed by Aldens to persons within the State of Wisconsin are credit application forms and credit sales agreement forms. The credit application and agreement form is completed and signed within Wisconsin by the Wisconsin resident and is then mailed from Wisconsin to Aldens at its offices in Chicago (A6, par. 20). Aldens then determines the credit worthiness of the Wisconsin customer through a procedure that sometimes includes phoning credit bureaus in Wisconsin for in-file checks of their records (A6, par. 19).

The credit agreement sets forth the terms under which the Wisconsin customer may obtain an extension of credit

on purchases from Aldens. Following the purchase of merchandise under the credit plan, Aldens sends monthly billing statements to its credit customers in Wisconsin. These statements set forth the charges to each Wisconsin customer's account and require payment by a certain date to avoid the assessment of finance charges (A6, par. 22). The monthly payment for merchandise purchased and finance charges assessed under the credit plan is then mailed in Wisconsin to Aldens in Chicago (A7, par. 23).

In the event a customer becomes delinquent in the payment of his account, Aldens attempts to collect the account using letters and other communications mailed from Chicago addressed to the customer in Wisconsin. In some instances, Aldens telephones the Wisconsin customer from Chicago to discuss his account and request payment (A7, par. 24). After an account has been delinquent for more than six months, Aldens writes it off as a bad debt. Some of these written off accounts are turned over by Aldens to Illinois or Minnesota independent collection agencies for collection (A7, par. 26).

THERE IS NO REASON TO GRANT THE WRIT

Although this Court has jurisdiction to grant a writ of certiorari to review the decision of the Seventh Circuit Court of Appeals, there is no reason to do so. This case does not meet the criteria set forth in sub. 1(b) of Rule 19, Supreme Court Rules, as considerations governing review of a court of appeals decision on certiorari. The decision of the court below is in accord with the decision of another court of appeals on the same matter and is fully consistent with all applicable decisions of this Court.

ARGUMENT

I. The Court Of Appeals Properly Held That The Due Process And Commerce Clauses Do Not Prevent Wisconsin From Regulating The Mail Order Credit Charges And Practices Of Aldens Directed Towards Its Wisconsin Customers.

A. The cases uniformly hold that the states may regulate the mail order solicitation and selling activities of foreign corporations to protect their residents against deceptive and overreaching practices.

In evaluating Aldens' due process challenge, the District Court held that Wisconsin can act to protect the public welfare from the "concerted, systematic exploitation of the Wisconsin market" (A10) "on the scale of Aldens, even though those activities involve no physical presence" (A12-13) within Wisconsin. In affirming the District Court's opinion, the Court of Appeals held that although "the connection between a state and the regulated person must be of a more substantial character than the 'minimum contacts' needed to support judicial process" (552 F. 2d at 751, A25), "[p]rotecting Wisconsin citizens from usurious credit terms imposed when they are residents of the state certainly meets due process minimums." (552 F. 2d at 751, A27).

In so holding, both courts expressly adopted the opinion of the Third Circuit Court of Appeals which dealt with the identical issues raised by the identical mail order seller in the identical factual setting. *Aldens, Inc. v. Packel*, 524 F. 2d 38 (3rd Cir. 1975). The Court of Appeals, in affirming the decision of the District Court for the Middle District of Pennsylvania (reported at 379 F. Supp. 521), held that:

> "Pennsylvania's interest in the rates which its residents pay for the use of money for the purchase of goods delivered into Pennsylvania is substantial enough to satisfy any due process objection to its attempt at regulating the subject matter." 524 F. 2d at 43.

Aldens' petition for a writ of certiorari in the *Packel* case was subsequently denied by this Court. 425 U.S. 943 (1976).[1]

As the courts below and the Third Circuit Court of Appeals correctly recognized, the "presence concept" of doing business has clearly been displaced by the more realistic approach of examining the extent of contacts with, and the degree of interest of, the regulating state. *See McGee v. International Life Insurance Co.*, 355 U.S. 220 (1957); *Travelers Health Ass'n. v. Virginia*, 339 U.S. 643 (1950); *International Shoe Co. v. State of Washington*, 326 U.S. 310 (1945); and *Hoopeston Canning Co. v. Cullen*, 318 U.S. 313 (1943). For example, in *Travelers Health Ass'n. v. Virginia, supra*, this Court held that the State of Virginia could subject a mail order insurance company to its laws, even though Travelers had no agents in Virginia and solicitation of new members was largely accomplished through the mails. The Court "rejected the contention . . . that a state's *power to regulate* must be determined by a 'conceptualistic discussion of theories of place of contracting or of performance'" and instead "accorded

[1] In addition, Aldens' position has been rejected by the District Court for the Western District of Oklahoma. *Aldens, Inc. v. Ryan*, No. CIV-75-0458-O (W.D. Okla., June 14, 1976). Aldens has appealed the District Court's judgment to the Tenth Circuit Court of Appeals.

'great weight' to the 'consequences' of the contractual obligations" in the regulating state and the "'degree of interest' that state had in seeing that those obligations were faithfully carried out." *Travelers Health Ass'n. v. Virginia, supra*, 339 U.S. at 648 (emphasis added), quoting *Hoopeston Canning Co. v. Cullen, supra*, at 316.

Following the above rulings of this Court, other courts have applied the same interest analysis approach in sustaining the constitutionality of state regulations involving out-of-state mail order operations. *See*, for example, *People v. Fairfax Family Fund, Inc.*, 47 Cal. Rptr. 812, 235 Cal. App. 2d 881 (1965), *appeal dismissed* (for want of a substantial federal question) 382 U.S. 1 (1965), which upheld California's regulation of mail order loan transactions between a Kentucky based firm and residents of California; *Minister's Life & Casualty Union v. Haase*, 30 Wis. 2d 339, 141 N.W. 2d 287 (1966), *appeal dismissed* (for want of a substantial federal question) 385 U.S. 205 (1966), and *United National Life Insurance Co., et al. v. California*, 58 Cal. Rptr. 599, 427 P. 2d 199 (1967), *appeal dismissed* (for want of a substantial federal question) 389 U.S. 330 (1967), which upheld Wisconsin and California regulations of mail order insurance transactions between foreign corporations and residents of those states; and *State of Washington v. Reader's Digest Ass'n, Inc.*, 81 Wash. 2d 259, 501 P. 2d 290 (1972), *appeal dismissed* (for want of a substantial federal question) 411 U.S. 945 (1973), which upheld the application of the State of Washington's Consumer Protection Act to the mail solicitations of Reader's Digest. Each of these cases is clearly grounded on the interest of the state in protecting its citizens from the substantial mail order solicitation and selling activities of the foreign corporation and not upon any *de minimus* physical presence in the state.

In light of the above cases, it is clear that Aldens' reliance upon antiquated concepts of extraterritoriality is misplaced and out of line with the recent trend towards expanding state regulatory jurisdiction over commercial

activities which emanate from outside a state but affect persons or property within the state. Indeed, even pre-*International Shoe* cases support respondents' position that a state can, consistently with due process, regulate a non-resident corporation in its transactions with residents of the state. As early as 1911, Justice Holmes, speaking for the Court in *Strassheim v. Daily*, 221 U.S. 280, 285, stated:

> "Acts done outside a jurisdiction, but intended to produce and producing detrimental effects within it, justify a state in punishing the cause of the harm as if he had been present at the effect, if the state should succeed in getting him within its power."

In conclusion, respondents submit that Aldens' view of due process is predicated on older, more simplistic concepts that a state's power necessarily ends at its territorial boundaries. As the foregoing line of cases makes clear, however, regulatory jurisdiction is no longer limited to "physical presence" or territorial boundaries. In the instant case, Wisconsin, in the exercise of its police powers, has a clear interest in protecting its citizens from abuses by foreign corporations in consumer credit sales. Under these circumstances, and especially in light of the multi-million dollar volume of business conducted by Aldens with Wisconsin residents each year, the decision of the Court of Appeals was both proper and consistent with prior due process decisions relating to the power of the states to regulate the conduct of foreign corporations in their mail order transactions with forum residents.

B. The cases uniformly hold that such regulations do not impose an undue burden on interstate commerce.

Aldens contends that the Commerce Clause of the United States Constitution (Article I, Section 8) prevents Wisconsin from regulating its mail order credit activities affecting customers within Wisconsin. It argues that it is an "interstate trader" engaged in "pure" interstate commerce and, therefore, cannot be regulated by the states.

Aldens' *per se* position ignores the long-standing rule that state regulations involving a legitimate local interest are not invalid because they affect interstate commerce unless the burden on such commerce is clearly excessive in relation to the local benefits. The *Great Atlantic & Pacific Tea Company, Inc. v. Cottrell*, 424 U.S. 366 (1976); *Pike v. Bruce Church Ins.*, 397 U.S. 137 (1970); *Head v. New Mexico*, 374 U.S. 424 (1963); *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Huron Portland Cement Co. v. City of Detroit*, 362 U.S. 440 (1960); *Robertson v. California*, 328 U.S. 440 (1945); *South Carolina State Highway Dept. v. Barnwell Bros.*, 303 U.S. 177 (1938); *Sligh v. Kirkwood*, 237 U.S. 52 (1914). Thus, the question is not simply whether or not the foreign corporation is an "interstate trader," but rather whether the state regulation is an undue or unreasonable burden on interstate commerce.[/2]

[/2] The *per se* approach to interstate commerce questions was most recently rejected in the case of *Complete Auto Transit, Inc. v. Brady*, ____ U.S. ____, 97 S. Ct. 1076 (March 7, 1977). Although recognizing that a rule of "absolute immunity for interstate commerce . . . would relieve this Court of difficult judgments," the Court added

(footnote 2 continued on next page)

In *Aldens, Inc. v. Packel, supra*, four factors were examined by the Third Circuit Court of Appeals to determine whether the application of the State of Pennsylvania's credit laws to Aldens was prohibited by the Commerce Clause. These four factors were: (1) has Congressional action pre-empted the field; (2) does the state regulation require a uniform national policy; (3) does the state regulation discriminate against persons engaged in interstate commerce; and (4) does the application of state law impose a burden in excess of any value attached to the state's interest in imposing its regulation. The court found that none of these four factors were present in that case and held that the Pennsylvania Goods and Services Installment Sales Act[3] does not constitute an undue burden on interstate commerce as applied to Aldens' mail order credit sales to Pennsylvania residents. *Aldens, Inc. v. Packel, supra*, 524 F. 2d at 45-46. The District Court and Court of Appeals decisions in this case (A14; 552 F. 2d at 749, A22) and the District Court opinion in *Aldens, Inc. v. Ryan, supra*, expressly adopted the Third Circuit's analytical approach to the Commerce Clause balancing issues and likewise held that there existed no undue burden on interstate commerce in applying the Wisconsin and Oklahoma consumer credit laws to Aldens' mail order credit sales with residents of those states.

(footnote 2 continued)

that ". . . administrative convenience . . . is insufficient justification for abandoning the principle that 'interstate commerce may be made to pay its way.'" 97 S. Ct. at 1084.

[3] 69 Pa. Stats. 1101, et seq.

In addition to the recent *Packel* and *Ryan* decisions, the balancing test has been applied in upholding the constitutionality of other state credit laws that regulated foreign corporations which conducted their business in the forum state solely by mail. *See Oxford Consumer Discount Company v. Stefanelli*, 102 N.J. Super. 549, 246 A. 2d 460 (1968), *appeal dismissed* 400 U.S. 308 (1970); *People v. Fairfax Family Fund*, 47 Cal. Rptr. 812, 235 Cal. App. 2d 881 (1965), *appeal dismissed* 382 U.S. 1 (1965).

Aldens' interstate commerce position would effectively render the states unable to regulate any activity of an "interstate trader," however harmful the effect on their citizens.[4] The "result would be ultimately to force all of the states to accept the lowest standard for conducting the business permitted by one of them" and would "[i]nevitably . . . mean that Congress would be forced to intervene and displace the states . . .." *Robertson v. California, supra*, 328 U.S. at 460.[5] The resulting federal administra-

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[4] Throughout Aldens' argument about "pure" commerce, it attempts to convey the impression that there is something constitutionally sacred about mail order activities that makes them exempt from state regulation. That this is not the case is abundantly clear from a long line of federal cases. In addition to those previously cited herein, *see Miller v. California*, 413 U.S. 15 (1973), and *Roth v. United States*, 354 U.S. 476 (1957).

[5] To date, federal action in the consumer credit area has been largely limited to the Consumer Credit Protection Act, 15 U.S.C. 1601-1681, commonly known as the "Truth in Lending" Act. That act does not evidence any Congressional intent to exclude concurrent regulation by the

(footnote 5 continued on next page)

tive burdens would be staggering and, even with increased resources, the federal government would probably encounter great difficulty in carrying out the details and continuous policing necessary for effective regulation. Fortunately, as the Court stated in *Robertson*, *supra*, the Commerce Clause does not dictate such a result. To the contrary, as was noted in *Packel*:

> "The burden on interstate commerce does not depend upon the happenstance of the respective locations of buyer and seller." 524 F. 2d at 47.

In short, the Court of Appeals' conclusion that the application of the Wisconsin Consumer Act to Aldens' credit transactions with Wisconsin residents is not prohibited by the Commerce Clause is fully consistent with the prior holdings of this Court and other applicable judicial decisions and, therefore, need not be reviewed.

II. The Cases Cited By Aldens Are Not Relevant To The Constitutionality Of State Consumer Credit Regulatory Statutes.

Aldens relies upon four decisions of this Court, *National Geographic Society v. California Board of Equalization*, ___ U.S. ___, 97 S. Ct. 1386 (April 4, 1977), *Allenberg Cotton Co. v. Pittman*, 418 U.S. 20 (1974), *National Bellas*

(footnote 5 continued)

states. In fact, to the contrary, in four specific sections (15 U.S.C. 1610, 1633, 1677 and 1681) Congress explicitly waives preemptive intent and in unequivocal language recognizes that state laws, unless inconsistent with the Act, remain unimpaired.

Hess v. Department of Revenue, 386 U.S. 753 (1967), and *Eli Lilly & Co. v. Sav-On-Drugs, Inc.*, 366 U.S. 276 (1961), in support of its contention that it is exempt from state regulation absent an identifiable physical presence in the regulating state. These decisions fall into two categories: the tax cases (*National Bellas Hess* and *National Geographic*) and the cases relating to the denial of state court access to foreign corporations operating in interstate commerce (*Allenberg* and *Eli Lilly*).

National Bellas Hess dealt with the constitutionality of a State of Illinois requirement that imposed use tax collection responsibility upon an out-of-state mail order retailer with no offices or agents in Illinois. As the Court of Appeals pointed out, the case was clearly treated by this Court as a tax case and was decided entirely on the basis of case authorities in the area of the power of the state to tax out-of-state retailers (552 F. 2d at 752-53, A29-30).

Since *National Bellas Hess* is a tax case, it is inapplicable to a state statute enacted to protect the health, safety and welfare of its citizens. As the District Court below noted, "[t]axation and the collection of taxation have long been regarded as obligations which may be imposed only on those who enjoy the benefits of living or operating a business within the taxing unit." (A12). The District Court therefore concluded that "[t]he level of state activity which would justify taxation is of a far greater magnitude than the level of activity which justifies the application of state statutes seeking to protect the public health or welfare." (A12). *See Huron Portland Cement Co. v. City of Detroit*, 362 U.S. 440 (1960). The Court of Appeals, in affirming the District Court's decision, quoted from *Freemen v. Hewitt*, 329 U.S. 249, 253 (1946), where this Court discussed at length the greater burden on interstate commerce presented by tax cases as opposed to police regulations designed to safeguard local interests (552 F. 2d at 752,

A28-29). The Court of Appeals therefore also concluded that *National Bellas Hess* was inapplicable to the exercise of police power presented by the Wisconsin Consumer Act.

Similarly, the Third Circuit in *Aldens, Inc. v. Packel, supra*, 524 F. 2d at 43, stated:

> "Tax cases of necessity come in for special due process scrutiny. No state interest rates so high in the state scale of values as the states sovereign's fisc. At the same time no extraterritorial manifestation of sovereignty, except possibly arrest, is quite so offensive to common notions of its territorial limits. Thus extraterritorial impositions of tax collection obligations have been upheld only when it can be said that a benefit has been conferred on the tax collector by virtue of the state's sovereignty, and tax is related to that benefit."

The scope of the ruling in *National Bellas Hess* was recently narrowed by the decision in *National Geographic Society v. California Board of Equalization, supra. National Geographic* held that the State of California could impose use tax collection liability on an out-of-state mail order seller on the basis that two unrelated California advertising offices of the seller provided a sufficient nexus with the taxing state. As in *National Bellas Hess*, the cases cited in *National Geographic* dealt not with regulation but with the power to tax.

In enthusiastically citing *National Geographic*, Aldens merely adds green wood to an already smoldering fire. *National Geographic* simply refines the ruling in *National Bellas Hess* by specifying the minimum nexus that must be established between an out-of-state seller and a *taxing*

state in order to justify the imposition of use tax collection liability. Neither *National Geographic* nor *National Bellas Hess* stand for the proposition that a state may not act to protect its citizens by regulating the credit charges and practices of out-of-state mail order sellers.

The principal case which Aldens relies upon as defining the plane of impermissible regulation of "pure" interstate commerce is *Allenberg Cotton Co. v. Pittman, supra. Allenberg* involved the application of a Mississippi statute which prohibited the use of the Mississippi state courts to foreign corporations that failed to qualify to transact business in the state. This Court held that the statute constituted an undue burden on interstate commerce as applied to a Tennessee cotton merchant who attempted to use the Mississippi courts to enforce a contract to purchase cotton from a Mississippi farmer.

The facts in *Allenberg* are in sharp contrast to those in this case. *Allenberg* involves a burden on the cotton marketing system, an area of great import to our national economy; this case involves the setting of maximum finance charges in consumer credit transactions, an area in which Congress has expressly deferred to the states. *See* 15 U.S.C. 1610(b). In *Allenberg* there is no assertion of an overriding state public purpose as balanced against the substantial federal interest in the uninterrupted operation of the interstate cotton exchange; here there is the strong Wisconsin interest in protecting its residents from the imposition of unconscionably high finance charges as balanced against little or no federal interest. Finally, *Allenberg* involves a statute prohibiting the use of state courts to certain foreign corporations engaged in interstate commerce; here there is no statute or other state effort which denies Aldens access to Wisconsin courts to enforce its contracts with Wisconsin residents.

Because of the numerous distinctions between *Allenberg* and this case, Aldens is forced to interpret the Court's decision as a rejection of the "balancing test" in Commerce Clause cases in favor of a *"per se"* rule. However, as both lower courts in this case noted, implicit in the opinion in *Allenberg* is the process of balancing the federal interest in minimal disruptions of the free flow of commerce in the interstate cotton market with the purported interests of the State of Mississippi in denying access to its courts to foreign corporations which have not qualified to do business in Mississippi. In *Allenberg* the Court balanced the conflicting interests and struck down the state law. That is not to say, however, that all state laws are unconstitutional when applied to an "interstate trader." As this Court said in *Robertson v. California, supra*, 328 U.S. at 458, "it is not simply the fact of prohibition, but what is forbidden and for the protection of what interest, that is determinative."[6] In *Allenberg* one finds a weak state interest in requiring a certificate of authority to do business for foreign corporations and a corresponding heavy burden on interstate commerce through the denial

[6] For example, the state interest in protecting its citizens has been found to be so strong in some cases that states have even been permitted to prohibit entirely the entry of certain dangerous products. *Robertson v. California, supra; Rasmussen v. Idaho*, 181 U.S. 198 (1901); *Missouri v. K. & T. R. Co. v. Haber*, 169 U.S. 613 (1898). Similarly, in the recent right to privacy decision involving the constitutionality of a New York contraceptive law as applied to a North Carolina mail order firm, this Court recognized that "even a burdensome regulation may be validated by a sufficiently compelling state interest." *Carey v. Population Services International*, ____ U.S. ____, 97 S. Ct. 2010, 2017 (June 9, 1977).

of court access for the enforceability of interstate contracts. Thus, the decision is fully compatible with other Commerce Clause decisions of this Court which have applied the balancing test.

Aldens also cites *Eli Lilly & Co. v. Sav-On-Drugs, Inc.*, 366 U.S. 276 (1961), as another decision of this Court which clearly establishes that a regulating state must first find an intrastate activity upon which to base its regulation. *Eli Lilly* involved a New Jersey statute which denied foreign corporations transacting business in New Jersey the right to bring any action in the state upon any contract made there unless the corporation registered with the Secretary of State and obtained a certificate authorizing it to do business in the state. Thus, *Eli Lilly* falls in the line of cases, leading to *Allenberg*, which have struck down state laws denying foreign corporations access to forum courts. Here, of course, there is no comparable statute. It should also be noted that the Supreme Court in *Eli Lilly* actually sustained the constitutionality of the New Jersey statute in that case so that Aldens' reliance upon it is based solely upon conjecture that the Court would rule otherwise if confronted with the facts of this case.

In conclusion, it is abundantly clear that none of the cases relied upon by Aldens stands for the proposition that an interstate trader is immune from state regulation. To the contrary, what emerges from an evaluation of the due process and interstate commerce cases over the past 30 years is not the wooden, *per se*, test urged upon this Court by Aldens, but rather a multi-faceted analytical approach which examines the nature and extent of the activity which the state has sought to regulate, the state and federal interest in the area and the manner in which the state has attempted to assert its regulatory interest. Such an analysis was made by the Court of Appeals in this case and properly led to the sustaining of the constitutionality of the Wisconsin Consumer Act as applied to Aldens.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petitioner has presented no issues worthy of discretionary review by this Court and that, therefore, its Petition should be denied.

Respectfully submitted,

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